



Appeal Decision

Site visit made on 9 September 2022

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2022

Appeal Ref: APP/F0114/W/22/3297874

Bell Farm, Hunstrete Lane, Woollard, Bristol BS39 4HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Christopher Carpenter against the decision of Bath and North East Somerset Council.
 - The application Ref 21/00606/FUL, dated 10 February 2021, was refused by notice dated 18 November 2021.
 - The development proposed is described as 'The applicants are seeking dual use (agricultural/commercial) for the small parcel of land ST 6326 6451 upon which a Shepherd's hut, used both as ancillary to Bell Farm Alpacas and as a small community cafe, is currently located'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit, I saw that the Shepherd's hut had already been installed at the site, whilst picnic benches were also located at the site seemingly in connection with the change of use for which permission is sought. However, further development proposed, in the form of a separate toilet hut, had yet to be completed. I note that the application was submitted in part retrospectively. I have therefore dealt with the appeal on this basis.
3. In reference to the Flood Zone classification of the site, commentary was made by the Council's drainage officer that the site falls within Flood Zone 2. However, the Council has suggested that this was a typographical error and informs that the site is within Flood Zone 3b, which appears to be supported by its Strategic Flood Risk Assessment (SFRA). The Environment Agency (EA) also commented on the development scheme and indicated the appeal site is located within Flood Zone 3b.
4. The appellant has queried the accuracy of the Flood Zone classification but has not provided any substantive evidence to contest its Zone 3b designation. It is also noted that the appellant's original submission acknowledged that the site is located within Flood Zone 3b. A subsequent technical note¹ (in relation to flood risk) that was prepared by the appellant's consultant also recognises that the site is within Flood Zone 3b. Consequently, from the evidence before me, I consider that the site is located within Flood Zone 3b and the appeal has been determined on this basis.

¹ Technical Note – 8056/01 (dated May 2021) prepared by Cole Easdon Consultants Limited.

Main Issue

5. The main issue is whether the development is in a suitable location having regard to flood risk.

Reasons

6. The appeal site comprises an existing field of approximately 0.2 acres, that sits on the banks of the River Chew, within the village of Woollard. The river flows along the northern and eastern boundaries of the site. The site is accessed from Hunstrete Lane, which forms its western boundary, while a residential property lies to the south-east. The field is grassed and contains numerous recently planted trees. I understand that the site forms part of a wider agricultural landholding associated with Bell Farm, with the appeal scheme seeking to support an Alpaca business at the wider farm.
7. As indicated the site is located within Flood Zone 3b. The Planning Practice Guidance (PPG) states that Flood Zone 3b comprises functional floodplain, where water from rivers or the sea has to flow or be stored in times of flood. It further identifies that land in Flood Zone 3b as having a 3.3% or greater annual probability of flooding. Indeed, both the appellant's evidence and that of third parties note historic flood events that have taken place at the site.
8. Policy CP5 of the Bath and North East Somerset Core Strategy Part 1 of the Local Plan (adopted 2014) (the Core Strategy), promotes the sequential approach to flood risk management, avoiding inappropriate development in areas at risk of flooding and directing development away from areas at highest risk. This is in line with the National Planning Policy Framework (the Framework).
9. Limited justification has been provided as to why the development cannot be sited at alternative locations at a lower risk of flooding. However, even if the appeal scheme were unable to be located anywhere else and hence would pass the sequential test, the PPG identifies that only water compatible development and essential infrastructure (which has passed the exceptions test) are deemed to be suitable in Flood Zone 3b. Therefore, whilst the appeal scheme is considered by the PPG to comprise 'less vulnerable' development it remains inappropriate development within Flood Zone 3b.
10. In seeking to mitigate the risk from flooding at the site, the appellant has submitted a 'detailed evacuation plan' (DEP), which it is suggested could be conditioned should planning permission be granted. The DEP includes that in the event of a flood warning alert from the EA (or the appellant's anticipation of a flood event) operations on site would cease, whilst the shepherd's hut, toilet hut and ancillary equipment would be removed from the site.
11. From my observations on site, I do not doubt that the development is capable of being removed from site in a relatively timely manner. Therefore, if suitably enacted the mitigation plan may help to reduce the potential impacts of flood risk to the development. Nevertheless, the EA has outlined that the site is prone to flash flooding which is difficult to accurately forecast or provide advanced warning. As such, although the EA offers an advanced warning system for the area, it states that it cannot guarantee that sufficient advanced warning of flooding would be provided. The appellant also highlights that the nature of his business means that he and his wife constantly monitor the

weather and river levels and so would consistently be prepared for potential flood events. Whilst this may be the case, planning permission runs with the land and there is no guarantee that a potential future operator of the development would have the same diligence. Accordingly, the proposed DEP would not provide suitably robust mitigation measures.

12. The appellant also indicates that previous flood events that have affected the site have been very infrequent, not rapid in nature, whilst the overall magnitude of their impacts on the appeal site have been somewhat limited. However, past occurrences are not necessarily an accurate predictor of future flood risk events, particularly taking account of climate change.
13. As part of the justification for the development, the appellant has also referenced a planning permission (ref: 14/04717/FUL) from 2014 in relation to an adjacent neighbouring property. I have limited details of that permission including the site's flood risk context at the time of its determination. However, I understand that the permission related to the installation of a gateway and driveway for four cars to serve an existing dwelling. That proposal would therefore have been a householder development that would have been classified as 'minor development' by the PPG. Its context is therefore somewhat different to the current appeal development. As such, it has little bearing on my findings as to the acceptability of the current scheme.
14. For the above reasons, it has not been demonstrated that the appeal site is a suitable location for the development in terms of flood risk. The scheme therefore conflicts with Policy CP5 of the Core Strategy. As set out above, this policy aims to steer development away from areas at higher risk of flooding. It is also inconsistent with the relevant requirements of the Framework in respect of managing flood risk.

Other Matters

15. There are socio-economic benefits associated with the development, including in relation to the farm diversification. However, given the scale of the appeal scheme these appear to be modest in nature and do not outweigh the conflict with local and national policy in respect of flood risk.
16. Compliance with planning policies in respect of wider matters including Green Belt, ecology and highway safety is also to be expected of new development proposals. Consequently, this does not weigh in favour of the scheme.
17. I note that numerous third parties have expressed support for the development as part of the original application process, including that the appeal scheme provides a valuable facility for the local community and is in keeping with the character of the area. However, neither the level of third-party support for the development, nor the other matters raised, outweigh, or alter my conclusions on the main issue.
18. The appeal site is within the boundary of the Woollard Conservation Area (CA). Given that I am dismissing the proposal due to concerns surrounding flood risk, it is not necessary to come to a view in respect of the impact on the heritage asset.

Conclusion

19. For the reasons given above, having regard to the development plan and all other material considerations, I conclude that the appeal should be dismissed.

Lewis Condé

INSPECTOR